

NUMBER: 1424

TITLE: Policy on Intellectual Property

APPROVED: June 20, 1991 (Supersedes Policy Number 1422 on Copyrights and Policy Number 1423 on Patents Approved on April 10, 1975); Revised September 14, 2000; Revised April 8, 2010 (Policy Revised in its Entirety)

PREAMBLE

Old Dominion University's support of the research efforts of its employees creates an intellectual environment that fosters the commercial development of new discoveries and creations which may be enhanced by patents and copyrights. As a state-supported institution of higher education, Old Dominion University has the responsibility of ensuring that these discoveries and creations are protected in the best interests of our researchers, creators, the University, and the public, in compliance with the laws of the Commonwealth of Virginia. At the same time, Old Dominion University recognizes the importance of its commitment to the principles of academic freedom and the tradition of free and open discussion of research and scholarly investigation. For the reasons specified in this preamble, the Old Dominion University Intellectual Property policy was written.¹

I. PURPOSES

The purposes of this policy are to encourage research and scholarship by protecting the interests of creators and the University in Intellectual Property; to define the responsibilities, rights and privileges of Old Dominion University, and those individuals covered under this policy; and to provide basic guidelines for the administration of all matters related to Intellectual Property in which the University has a proprietary interest in accordance with the policy guidelines developed by the State Council of Higher Education in Virginia (SCHEV) and as required by state law and provide for the distribution of royalties as described herein.

II. DEFINITIONS

- A. Copyrighted Work - An original work of authorship fixed in any tangible medium of expression, including but not limited to literary, musical, dramatic and pictorial materials, sound and visual recordings, computer software programs, and transcripts, published or unpublished, and which property rights are protected by common law and federal copyright law, as further defined by Title 17 of the U.S. Code.
- B. Creator - Either an inventor in the context of an invention, or an author in the context of a copyrighted work.

- C. Disclosure - A report of a development, invention or creation of an original work of authorship.
- D. Invention - A new, useful and non-obvious discovery, process, composition of matter, article of manufacture, design, mask-work, model, technological development, biological or plant material, strain, variety, culture or portion, modification, improvement, translation, or extension of these items.
- E. Intellectual Property - An Invention, Know-how, Mark, or Copyrighted Work of authorship developed by anyone covered under this policy.
- F. Development Expenses - All reasonable expenses incurred by the University for goods and services to administer, protect, develop, and/or enhance the marketability or other aspect of an In

- N. University Research - Research and allied activities which are directly related to the normally expected or assigned duties and responsibilities of University employees.
- O. Work Made for Hire - A creation or original work of authorship created by a University employee within the scope of his or her employment, or specified by agreement and as further defined by Sec 101 US Copyright Act.
- P. Assigned Duty - Intellectual Property created by an author or inventor where the University has specifically directed the author or inventor to develop/produce the Intellectual Property.
- Q. Proprietary Interest - Rights held by the owner of Intellectual Property that have not been waived or otherwise assigned by a separate written agreement.

III. APPLICABILITY

This policy applies to all University employees and students who receive compensation through sponsored research, tuition/fee waivers, scholarships, assistantships, or other financial arrangements and to other individuals who make significant use of University facilities and equipment owned or otherwise made available by the University, as described in VA CODE S 23-4.3.

IV. OWNERSHIP

A. Inventions

An Invention developed by any person to whom this policy is applicable as defined in Section III above shall be the property of the University if the development or invention is a product of University or sponsored research or assigned duty or was developed with the significant use of University facilities, equipment, or funds, or employee time. Nothing contained in this policy shall be construed as prohibiting the University's acceptance of an agreement which requires a different disposition of patents or patent rights than the disposition created hereunder. In the absence of terms in an agreement governing the disposition of patents, or patent rights, this policy shall apply. Absent a written agreement to the contrary, inventions by non-employees, including but not limited to visiting faculty and volunteers, shall be subject to this policy when significant use is made of the University's facilities or equipment pursuant to Section III above.

Release of Rights to the Inventor

B. Original Works of Authorship

The University exercises its ownership rights as an employer under the concept of work-for-hire or when the materials subject to copyright, represent work performed by an employee under the direction of, or assignment by, the University. In the case of a work made for hire, the work belongs to the University as the employer of the author, and the University will be considered the author for purposes of copyright. Ownership of copyrights concerning works developed in the course of a written agreement shall be determined in accordance with the agreement.

1. Books, journal articles, papers and similar works. Subject to Section VI, and the University's rights as further defined herein the University hereby transfers to the author(s) its copyrights in such original works as papers, books, articles, musical, pictorial and similar works created by its employees when such works are not expressly made pursuant to an assigned duty. The protection and maintenance of such copyrights shall be the sole responsibility of the author(s). The University retains exclusive ownership of the rights in the Inventions incorporated in such original works, pursuant to section IV.A above and the rights to utilize such papers and articles for purposes of commercializing the Inventions inherent in such original works.
2. All other original works of authorship. For all other original works of authorship, including but not limited to lecture/instructional materials, computer software and all associated programmer and/or user manuals and other documentation, related to the employee's teaching or research responsibilities, collectively "Other Works" the University herewith gives the author(s), (subject to the rights of the other co-authors) of the copyrighted material, in which the University has a proprietary interest, a non-exclusive, non-transferable, royalty free license to make and distribute

3. University's rights in such copyrighted material. Except for works created under a specific written agreement, the University will give credit to the author on any copies and derivative works. Prior to using the authors name on any derivative works the University will seek the author's prior approval. Such approval may not be unreasonably withheld by the author. In the case of any disputes such disputes will be resolved pursuant to Section X of this policy.

Notwithstanding the above, all rights in copyrightable material, including but not limited to instructional materials, produced through the facilities of y no7v

B. University Designated Research Officer

The University designated research officer shall be the vice president for research and shall have the following responsibilities:

1. Assure compliance with patent and copyright provisions of University and sponsored research grants and contracts;
2. Establish and distribute procedures for the reporting of intellectual properties in which the University has a proprietary interest;
3. Perform initial reviews of the disclosures submitted to the University to determine the subsequent rights thereto;
4. Manage the evaluation, protection, marketing and commercialization of University Intellectual Property, that in his/her judgment is worth pursuing, through internal₂ and/or external resources including but not limited to patent management agents, consultants and lawyers.
5. Insure that required agreements regarding the administration of intellectual property in which the University has a proprietary interest, and consequent rights of all parties concerned, are properly executed;
6. Assist in increasing patent awareness among faculty and staff;
7. Provide annual reports of intellectual property in which the University has a proprietary interest to SCHEV in accordance with state law; and
8. Perform such other responsibilities as required to comply with state law with regard to University intellectual properties and this policy.

VI. NOTIFICATION

Those inventors and authors subject to the provisions of this policy shall report their inventions and original works of authorship in which the University has a proprietary interest to the University designated research officer. Disclosure must be complete and reasonably in advance of any public disclosure to allow the University or Funder to protect any Intellectual Property that needs protection. The University may not suppress nor unduly delay the publication, without the consent of the authors. Where necessary the University may take custody of the original copies of scientific data and/or research records.

